



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**RIN 0648-BG21**

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 16**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the Mid-Atlantic Fishery Management Council has submitted Amendment 16 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan, incorporating the Environmental Assessment and the Initial Regulatory Flexibility Analysis, for review by the Secretary of Commerce, and is requesting comments from the public. Amendment 16 would establish a deep-sea coral protection area in Mid-Atlantic waters where fishing vessels would be prohibited from using most fishing gear that contacts the ocean bottom. The Council developed Amendment 16 to protect deep-sea corals under the Magnuson-Stevens Fishery Conservation and Management Act's discretionary provision for deep-sea coral protection. The coral protection measures would prevent expansion of fisheries using ocean

bottom-tending fishing gear in areas where there is a high likelihood of deep-sea coral presence and would prevent damage to deep-sea corals in areas where they been observed.

**DATES:** Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The Council prepared an environmental assessment (EA) for Amendment 16 that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of Amendment 16, including the EA, the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA), are available from: Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 State Street, Dover, DE 19901. The EA/RIR/IRFA are accessible online at <http://www.greateratlantic.fisheries.noaa.gov/>.

You may submit comments on this document, identified by NOAA-NMFS-2016-0086, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0086](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0086) , click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930.  
Mark the outside of the envelope, “Comments on MSB Amendment 16 NOA.”

Instructions: Comments sent by any other method, to any other address or individual, or

received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Peter Christopher, Fishery Policy Analyst, 978-281-9288; fax 978-281-9135.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On January 16, 2013, the Council published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (78 FR 3401) for Amendment 16 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) to consider measures to protect deep-sea corals from the impacts of commercial fishing gear in the Mid-Atlantic. The Council conducted scoping meetings during February 2013 to gather public comments on these issues. Following further development of Amendment 16 through 2013 and 2014, the Council conducted public hearings in January 2015. Following these public hearings, and with disagreement about the boundaries of the various alternatives, the Council held a workshop with various stakeholders on April 29-30, 2015, to further refine the deep-sea coral area boundaries. The workshop was an example of effective collaboration among fishery managers, the fishing industry, environmental organizations, and the public to develop management recommendations with widespread support. The Council adopted Amendment 16 on June 10, 2015. The Council submitted Amendment 16

on August 15, 2016, for final review by NMFS, acting on behalf of the Secretary of Commerce.

The Council developed the action, and the measures described in this notice, under the discretionary provisions for deep-sea coral protection in section 303(b) of the Magnuson-Stevens Fishery Act. This provision gives the Regional Fishery Management Councils the authority to:

- Designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;
- Designate such zones in areas where deep-sea corals are identified under section 408 (this section describes the deep-sea coral research and technology program), to protect deep-sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep-sea corals, after considering long-term sustainable uses of fishery resources in such areas; and
- With respect to any closure of an area under the Magnuson-Stevens Act that prohibits all fishing, ensure that such closure
  - Is based on the best scientific information available;
  - Includes criteria to assess the conservation benefit of the closed area;
  - Establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
  - Is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts

of limiting access to: Users of the area, overall fishing activity, fishery science, and fishery and marine conservation.

Consistent with these provisions, the Council proposed the measures in Amendment 16 to balance the impacts of measures implemented under this discretionary authority with the management objectives of the Mackerel, Squid, and Butterfish FMP and the value of potentially affected commercial fisheries. Measures recommended by the Council would:

- Establish a deep-sea coral protection area that would be in Mid-Atlantic waters only. It would consist of a broad zone that would start at a depth contour of approximately 450 meters (m) and extend to the U.S. Exclusive Economic Zone boundary, and to the north and south to the boundaries of the Mid-Atlantic waters (as defined in the Magnuson-Stevens Act). In addition, the deep-sea coral protection area would include 15 discrete zones that outline deep-sea canyons on the continental shelf in Mid-Atlantic waters. The deep-sea coral area, including both broad and discrete zones, would be one continuous area.
- Restrict the use of bottom-tending commercial fishing gear within the designated deep-sea coral area, including bottom-tending otter trawls; bottom-tending beam trawls; hydraulic dredges; non-hydraulic dredges; bottom-tending seines; bottom-tending longlines; sink or anchored gill nets; and pots and traps except those used to fish for red crab and American lobster;
- Require the use of vessel monitoring systems for *Illex* squid moratorium permit holders to facilitate enforcement of the deep-sea coral area and gear restrictions;

- Allow vessels to transit the deep-sea coral area protection area provided the vessels bring bottom-tending fishing gear onboard the vessel, and reel bottom-tending trawl gear onto the net reel; and
- Expand framework adjustment provisions in the FMP for future modifications to the deep-sea coral protection measures.

The Council recommended that the deep-sea coral protection area should be named in honor of the late Senator Frank R. Lautenberg. Senator Lautenberg was responsible for several important pieces of ocean conservation legislation and authored several provisions included in the reauthorized Magnuson-Stevens Act, including the discretionary provision for coral. Therefore, the Council proposed that the combined broad and discrete zones be officially known as the “Frank R. Lautenberg Deep-Sea Coral Protection Area.”

The proposed geographic range and gear restrictions in this action overlap with several fisheries outside the Atlantic Mackerel, Squid, and Butterfish FMP and could potentially affect any federally permitted vessel intending to fish within the proposed deep-sea coral area. However, during the initiation and scoping of this action, the Council determined that this action would not apply to the American lobster fishery. Therefore, this action would not restrict the use of lobster pots in the proposed deep-sea coral area. Deep-sea red crab pots and traps would also be allowed in the deep-sea coral zone under the proposed action. The Council proposed the exemption for this gear because red crab fishing occurs entirely within the deep-sea coral protection zone. Prohibiting the gear in the area would eliminate a large portion of the red crab fishery, with likely disproportional negative impacts on the red crab fishery relative to other

fisheries.

Through this document, NMFS seeks comments on Amendment 16 and its incorporated documents through the end of the comment period stated in the DATES section of this notice of availability (NOA). Following NMFS's review of the amendment under the Magnuson-Stevens Act procedures, a rule proposing the implementation of measures in Amendment 16 is anticipated to be published in the **Federal Register** for public comment. Public comments must be received by the end of the comment period provided in this NOA of Amendment 16 to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on the NOA of Amendment 16, whether specifically directed to the NOA or the proposed rule, will be considered in the approval/disapproval decision. Comments received after the end of the comment period for the NOA will not be considered in the approval/disapproval decision of Amendment 16.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 30, 2016.

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Emily H. Menashes,

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Office of Sustainable Fisheries,

National Marine Fisheries Service.

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